

**BY ORDER OF THE COMMANDER
AIR FORCE MATERIEL COMMAND**



DOD REGULATION 5400.7

AIR FORCE MATERIEL COMMAND

Supplement 1

20 JANUARY 2000

**FREEDOM OF INFORMATION ACT (FOIA)
PROGRAM**

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OPR: HQ AFMC/SCD (Mr. Robert Kennedy)
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This instruction implements AFPD 37-1, *Air Force Information Management* (will convert to AFPD 33-3) and DoD Regulation 5400.7/Air Force Supplement, *DoD Freedom of Information Act Program*. It expands on the guidance provided in the Air Force Supplement and applies to Freedom of Information Act (FOIA) requesters, submitters, Air Force Materiel Command (AFMC) FOIA managers/monitors, records owners, initial denial authorities and legal reviewers. AFMC installation FOIA managers may supplement this guidance when necessary.

SUMMARY OF REVISIONS

This supplement supersedes AFI 37-131/AFMC Supplement 1, 23 Dec 94, and provides updated terminology and instructions. For the purposes of this supplement, the term "FOIA manager" refers to the AFMC host base FOIA manager.

DoD Regulation 5400.7, 4 Sep 98 and Air Force Supplement, 22 Jul 99 has been supplemented as follows:

C1.3.1.1. If any requested information is withheld, the request must be processed as a FOIA through the installation FOIA manager's office.

C1.4.5. Initial Denial Authority (IDA) changes must be requested through HQ AFMC/SCDP. The AFMC installation IDA will serve as the IDA for all AFMC organizations assigned to the installation. HQ AFMC/SC will serve as the IDA for all AFMC organizations not located on an AFMC installation.

C1.4.5.1. It is incumbent upon an OPR to ensure FOIA requests are processed expediently in order to allow sufficient time for disclosure authority, legal and IDA reviews to be completed within 20 work-days. OPRs will be held responsible for undue delays, and may be requested to provide responses to complaints, including responses to Congressional inquiries.

C1.5.1. Circumstances/issues frequently arise which are not explicitly defined in existing guidance. On these occasions, the installation FOIA manager is responsible for interpreting policy and providing guidance. The installation FOIA manager may also consult with the command FOIA manager for additional guidance.

C1.5.3.3. FOIA managers must immediately inform the Command FOIA manager whenever there is a change in managers, organization symbols, telephone numbers, e-mail addresses, or fax numbers. Changes will also be updated on the base's FOIA home page.

C1.5.3.4. The disclosure authority is an individual at the division level, or higher, within the OPR's functional area. The disclosure authority makes the final functional determination and indicates the decision in Block III of AFMC Form 559, **Freedom of Information Act (FOIA) Request**. Legal reviewers indicate comments/recommendation in Block IV of AFMC Form 559 (see Attachment 1 for instructions).

C1.5.3.5. When a requester asks for multiple items, IDAs must address all items requested. Denial memos must include the statute and specific exemption cited. **NOTE:** If the reason for the "no records" determination is because the records were lost or prematurely destroyed, the OPR must contact the records manager for guidance on preparing a lost record report.

C1.5.3.6.1. Use AFMC Form 559 to process FOIA requests and appeals. See Attachment 1 for instructions. For denial memos requiring HQ AFMC/SC signature, the FOIA manager ensures that the package contains the letter prepared for signature. All other documents should be tabbed as follows: tab 1, original request; tab 2, background information (administrative documents); tab 3, releasable records; tab 4; withheld records; tab 5, legal opinions/AFMC Form 559s. Since some documents may need to be recopied if a denial is appealed, do not staple or acco-fasten the entire case file. Use rubber bands or paper clamps. If the withheld documents are voluminous, HQ AFMC/SCDP may waive them from being forwarded.

C1.5.3.7. Installation FOIA managers may use AFMC Form 556, **Freedom of Information Act (FOIA) Response and Invoice**, in responding to various FOIA issues.

C1.5.3.7.1.1. The installation FOIA manager may formally request an organization chief appoint a FOIA monitor to assist in timely processing of requests. The organization chief ensures the installation FOIA manager is provided with the monitor's name and phone number, and ensures the monitor is made available for training. The monitor serves as a liaison for OPRs and the installation FOIA manager.

C1.5.3.7.1.15. FOIA managers submit annual reports to HQ AFMC/SCDP by 15 October.

C1.5.5. Responses cannot be put on hold to await other actions such as a final legal decision.

C1.5.8.5. The OPR's next higher functional level from one who first determined the "no records" category should verify the second search. OPRs provide a detailed accounting of the second search to include areas/offices contacted, that both active and inactive files were searched, as appropriate, and that staging areas, Federal records centers, or other agencies were contacted, as appropriate. The "no records" letter must thoroughly document scope of the second search.

C1.5.9.4. Requests for Inspector General (IG) records, for which HQ AFMC/IG is the OPR, may be transferred directly to 88 CG/SCCIADF.

C3.2.1.4.8. OPRs notify submitters of a FOIA request and request submitters provide a response within 14 work days. If, after reviewing submitter objections, it is determined that information is releasable, notify the submitter that the information will be released 14 work days from the date of the letter.

C4.3.1.1. Personal information must be password/ID protected and encrypted prior to sending digitally.

C4.5.2.2. Documents containing personal information may not be recycled unless they are torn or shredded prior to going to recycle.

C5.2.4. OPRs and disclosure authorities review the requested information and provide recommendations using AFMC Form 559 (see Attachment 1 for instructions). For full denial recommendation, one copy of the record(s) must be provided. For partial denials, the OPR must provide a copy of the releasable record(s) and a copy of the denied records. OPRs must clearly identify entire pages, or sections of documents that are being withheld entirely. When there is both releasable and withholdable information on the same page, highlight the withheld information in yellow. If the records are voluminous, the FOIA manager may waive copy requirements. Denial recommendations must be coordinated through the legal office.

C5.3.1.1. Use AFMC Form 559 to document appeal reviews (see Attachment 1 for instructions). For "no records exist" appeals, ensure the next higher level person, within the same functional organization, documents block III of AFMC Form 559 indicating that a second search has been conducted. At times, it may be decided that previously withheld records are releasable. Forward the releasable records to the requester and amend the FOIA case file (tabs 4 and 6) as necessary. If additional records are found after providing the initial response, the information must be reviewed for a release determination. Tabs 4 and 6 must be amended. If denied information still remains, continue processing the appeal. Do not staple or acco-fasten appeal packages; use paper clamps or rubber bands. The installation FOIA manager will forward the appeal package to HQ AFMC/SCDP for legal review.

C6.1.3.3. OPR's complete and forward a DD Form 2086, **Record of Freedom of Information (FOI) Processing Cost for Technical Data**, or DD Form 2086-1, **Record of Freedom of Information (FOI) Processing Cost for Technical Data**, for fee estimating purposes. The installation FOIA manager makes the final decision on chargeable fees.

C6.1.3.4. (Added) Forms Prescribed. AFMC Form 556, **Request for Information Acknowledgment**, AFMC Form 559, **Freedom of Information Act Request**.

Attachment 1**INSTRUCTIONS FOR COMPLETING AFMC FORM 559****BLOCK I: FOIA OFFICE PROCESSING ACTIONS**

The FOIA manager:

- Checks "yes" blocks in Block I when fee issues are resolved and request is reasonably described
- Indicates maximum fee requester is willing to pay (if applicable)
- Assigns "Case Number" and "Suspense" after above 2 items are completed
- Completes "To" block: OPR/monitor's organization: "FROM" block: FOIA managers organization
- Indicates if action is in response to an initial request or an appeal. If an initial search, "Record Time Expended on DD Form 2086" block marked if necessary
- Provides clarification or other information in "REMARKS" block
- Provides Name, Signature, Phone Number and Date in appropriate blocks

BLOCK II: OPR PROCESSING ACTIONS

The OPR:

- Completes Block II

More than 1 block may be checked. If exemption b3 is cited, the statute must be listed on the line next to the word "Statute." If records may be located somewhere else, the OPR identifies the location on the line following "...Forward request to"

- Includes any additional comments in the "REMARKS" Block. For example: Requester did not specify which aircraft type. Called requester on _____. Requester stated information is requested for F-22 only. (In this example, the OPR provides documentation of the conversation and its outcome. Since it could be argued that the request was not reasonably described, the 20 workday time could be restarted from the date the clarification was provided)
- Include Name, Title, Signature, Date and Phone in appropriate blocks.

BLOCK III: OPR SECOND LEVEL APPROVAL

For initial actions, this block is usually completed by the OPR's division chief who is considered the disclosure authority. This block is also used to verify searches for records and to confirm "no records exist" responses. For processing appeals, this block should be signed by the supervisor of the individual who signed in this block for the initial action. Name, Grade, Title, Signature, Phone and Date blocks completed as indicated.

BLOCK IV: LEGAL COORDINATION

Legal reviewers complete this section and mark the blocks accordingly. All completed AFMC Forms 559 are placed in tab 7 of the appeal case file, even if the legal advisor has non concurred with a decision. When the legal advisor is also the initial denial authority, the completion of this block satisfies the requirement for an IDA review of an appeal.

Attachment 2
AFMC FORM 559

RUSH - FREEDOM OF INFORMATION ACT

FREEDOM OF INFORMATION ACT REQUEST <i>(Processing instructions on reverse)</i>		CASE NUMBER	SUSPENSE
I. FOIA OFFICE PROCESSING ACTIONS			
<input type="checkbox"/> YES	<input type="checkbox"/> NO	1. REQUESTER INVOKED FOIA AND OWES NO OUTSTANDING FEES	
<input type="checkbox"/> YES	<input type="checkbox"/> NO	2. REQUEST IS REASONABLY DESCRIBED	
<input type="checkbox"/> YES	<input type="checkbox"/> NO	3. FEE ISSUE IS RESOLVED	<input type="checkbox"/> WAIVE <input type="checkbox"/> REQUESTER WILL PAY _____
TO		FROM	
<input type="checkbox"/> INITIAL SEARCH ACTION		<input type="checkbox"/> APPEAL ACTION	
<input type="checkbox"/> RECORD TIME EXPENDED ON DD FORM 2086			
REMARKS			
FOIA MANAGER'S NAME		SIGNATURE	PHONE DATE
II. OPR PROCESSING ACTIONS			
<input type="checkbox"/> NO RECORDS COULD BE LOCATED			
<input type="checkbox"/> RECORDS MAY BE AVAILABLE AT ANOTHER SOURCE. FORWARD REQUEST TO: _____			
<input type="checkbox"/> RECORDS ARE	<input type="checkbox"/> FULLY RELEASABLE	<input type="checkbox"/> FULLY DENIED UNDER	<input type="checkbox"/> PARTIALLY DENIED UNDER
<input type="checkbox"/> b 1	<input type="checkbox"/> b 2	<input type="checkbox"/> b 3	STATUTE _____ <input type="checkbox"/> b 4 <input type="checkbox"/> b 5 <input type="checkbox"/> b 6
<input type="checkbox"/> b 7	<input type="checkbox"/> b 8	<input type="checkbox"/> b 9	<input type="checkbox"/> PROPOSED DENIAL LETTER ATTACHED
REMARKS			
NAME, GRADE, TITLE		SIGNATURE	PHONE DATE
III. OPR SECOND LEVEL APPROVAL (DIRECTORATE or CSO APPROVAL)			
<input type="checkbox"/> CONCUR		<input type="checkbox"/> NONCONCUR (Rationale in remarks)	
REMARKS			
NAME, GRADE, TITLE		SIGNATURE	PHONE DATE
IV. LEGAL COORDINATION (Denials and Appeals Only)			
TO			
<input type="checkbox"/> CONCUR WITH RECOMMENDED DENIAL		<input type="checkbox"/> CONCUR WITH "NO RECORD" RESPONSE	<input type="checkbox"/> NONCONCUR (Rationale in remarks)
REMARKS			
NAME, GRADE, TITLE		SIGNATURE	PHONE DATE

INSTRUCTIONS

(See DoDR5400.7/AF Sup 1)

I. FOIA OFFICE INSTRUCTIONS

- A. Do not assign a suspense or forward case thru FOIA Monitor to OPR until Questions 1-3 have been answered "YES".
- B. Attach a cost sheet or DD Form 2086 and a copy of the incoming request. Forward to OPR or FOIA monitor.

II. OPR/FOIA MONITOR INSTRUCTIONS: If request is not reasonably described, notify your FOIA office. Do not create a record to satisfy a request. If the record does not exist, so state in "REMARKS". If chargeable processing costs will exceed the dollar amount authorized in Section I, Question 3, notify FOIA office.

- A. Return case to FOIA office by the suspense date. If date cannot be met, ask for instructions.
- B. Complete Section II. Review AFI 37-131 for description of material which may be denied under authorized exemptions. Attach to the case file:
 - 1. One set of records to be fully released. Prepare documents for release per paragraph 3 below.
 - 2. One set of records to be fully denied.
 - 3. Two sets of records to be partially denied as follows: one full set of requested documents with denied portions yellow highlighted; one sanitized set with the denied portions removed. Prepare sanitized records as follows
 - a. Thoroughly remove those parts to be denied. Make sure that the denied parts cannot be read. On denials involving classified or extremely sensitive information, the denied parts **MUST** be cut out rather than blackened out, whited out, or taped out.
 - b. Draw a single line through security classification markings, FOUO markings and stamp the document "Unclassified".
- C. Follow any additional instructions given by FOIA office. Prepare proposed denials to be forwarded to HQ AFMC per instructions given by FOIA Office.
- D. Have your servicing SJA review and coordinate on all full or partial denials.

III. DIRECTORATE & CSO INSTRUCTIONS: The Director or designee (at least 1 level above section II signature) completes section III. Return complete case file to FOIA office for final processing.

IV. LEGAL COORDINATOR INSTRUCTIONS: Complete Section IV. Return complete case file to OPR/FOIA Monitor or FOIA office.

V. REMARKS

**Attachment 3
AFMC FORM 556**

FREEDOM OF INFORMATION ACT (FOIA) RESPONSE AND INVOICE				
REQUEST DATE		REQUEST NUMBER		
TO		FROM		
1. REQUESTED RECORDS				
<input type="checkbox"/> COMPLETELY RELEASED		<input type="checkbox"/> PARTIALLY RELEASABLE		
<input type="checkbox"/> DOCUMENTS ARE ATTACHED				
<input type="checkbox"/> DOCUMENTS WILL BE FORWARDED ON RECEIPT OF PAYMENT				
<input type="checkbox"/> DOCUMENTS MAY BE VIEWED AT THIS LOCATION (<i>Please call for an appointment</i>)				
<input type="checkbox"/> TIME EXTENSION IS REQUIRED BECAUSE				
<input type="checkbox"/> ALL OR PART OF THE REQUESTED RECORDS ARE NOT AT THIS LOCATION				
<input type="checkbox"/> VOLUMINOUS RECORDS MUST BE COLLECTED AND REVIEWED				
<input type="checkbox"/> RECORDS ARE BEING REVIEWED BY ANOTHER AGENCY FOR POSSIBLE RELEASE				
<input type="checkbox"/> WE HOPE TO PROVIDE A FINAL DECISION BY _____				
2. THE COSTS OF PROVIDING THESE DOCUMENTS ARE INDICATED BELOW				
REQUEST ACTIONS	RATE	MATERIAL	TIME	COST
SEARCH (Hourly)				
REVIEW (Hourly)				
COPY (Page)				
COMPUTER MACHINE TIME (Hourly)				
COMPUTER OPERATOR TIME (Hourly)				
COMPUTER TAPES				
OTHER				
			TOTAL AMOUNT DUE	
3. Send your check or money order payable to "US DEPARTMENT OF TREASURY " with a copy of this invoice within 30 days. <i>(Future requests will not be processed until payment is received.)</i>		3A. MAIL TO 		
4. THIS ACKNOWLEDGES RECEIPT OF YOUR CHECK OR MONEY ORDER FOR PAYMENT OF REQUESTED DOCUMENTS				
NUMBER	DATE	AMOUNT		
5. ALL OR PART OF THE INFORMATION YOU REQUESTED IS NOT AVAILABLE AT THIS INSTALLATION. WE HAVE FORWARDED YOUR REQUEST TO THE FOLLOWING LOCATION FOR ACTION WITH DIRECT RESPONSE TO YOU. 				
6. COMMENTS 				
7. FREEDOM OF INFORMATION ACT MANAGER				
NAME AND PHONE		SIGNATURE		DATE

DEBRA L. HALEY
Director of Communications and Information